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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: Nebraska Service Center Date: JUN 18 2002

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

IN BEHALF OF PETITIONER:

[redacted]

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INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

[redacted]

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a post-doctoral research associate at the Midwest Area National Center for Agricultural Utilization Research ("NCAUR"). The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

Section 203(b) of the Act states in pertinent part that:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --
>
> > (A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer. -- The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The petitioner holds a Ph.D. in Food Process Engineering from the University of Alberta in Canada. This degree has been independently evaluated as being equivalent to a Ph.D. degree from an accredited U.S. institution. The petitioner's occupation falls within the pertinent regulatory definition of a profession. The petitioner thus qualifies as a member of the professions holding an advanced degree. The remaining issue is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor Service regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to Service regulations implementing the Immigration Act of 1990

[redacted]

(IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, I.D. 3363 (Acting Assoc. Comm. for Programs, August 7, 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The application for the national interest waiver cannot be approved. The regulation at 8 C.F.R. 204.5(k)(4)(ii) states, in pertinent part, "[t]o apply for the [national interest] exemption the petitioner must submit Form ETA-750B, Statement of Qualifications of Alien, in duplicate." The record does not contain this document, and therefore, by regulation, the beneficiary cannot be considered for a waiver of the job offer requirement. The director, however, does not appear to have informed the petitioner of this critical omission. Below, we shall consider the merits of the petitioner's national interest claim.

Eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. At issue is whether this petitioner's contributions in the field are of such unusual significance that the petitioner merits the special benefit of a national interest waiver, over and above the visa classification she seeks. By seeking an extra benefit, the petitioner assumes an extra burden of proof. A petitioner must demonstrate a past history of achievement with some degree of influence on the field as a whole. Id. at note 6.

We concur with the director that the petitioner works in an area of intrinsic merit, chemistry, and that the proposed benefits of her research would be national in scope. It remains, then, to

determine whether the petitioner will benefit the national interest to a greater extent than an available U.S. worker with the same minimum qualifications.

The petitioner describes her research:

> I have been employed at [redacted] a Post-Doctoral Research Chemist in the Food Quality and Safety Research Unit. My primary responsibility is to conduct extraction and fractionation of biologically active components called nutraceuticals from edible materials using supercritical fluid fractionation technology and conduct design and operation of a counter current supercritical fluid fractionation tower. Generally, I am focusing on the isolation of high value and nutritive extracts from natural sources, by conducting reactions in both sub and supercritical fluid media, and coupling other separation processes in conjunction with critical fluid based technology.
>
> One of the key goals of my research work here [redacted] to encourage the industrial acceptance of critical fluid technology and pressurized media for the processing of agricultural products. I am working on developing new technologies utilizing critical fluid technology and pressurized media for the extraction, purification and reaction of components from natural matrices using environmentally friendly solvents such as pressurized carbon dioxide. In addition, I will conduct research to isolate high value ingredients having nutraceutical potential from natural agricultural sources, by using critical fluid based processes and using environmentally friendly and food-compatible catalysts, such as enzymes.
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> * * *
>
> This research will enable the production of edible oil from crops that are plentiful in the U.S., by processes that are environmentally friendly and do not result in inadvertent contamination of the edible oil with harsh solvents, such as hexane consequently resulting in more healthful edible oils [for] millions of Americans. Another national benefit accruing from my research is that the use of environmentally friendlier solvents, such as pressurized carbon dioxide gas, will reduce the utilization of environmentally harsh solvents currently being used for extraction, such as hexane, and their disposal.

Along with documentation pertaining to her field of research, the petitioner submits several witness letters [redacted] states:

> Currently, [the petitioner] is working in my research group, the [redacted] Peoria, Illinois, where I am her immediate supervisor. My research group is internally-funded by the Federal government [redacted] As Lead Scientist of the research group over the past eleven years, I am involved in supervising a team of seven scientists and engineers, conducting research in

the national interest involving improved processing methods for the production of food and related agricultural products, using environmentally-benign technology.

[The petitioner's] unique experience in the area of critical fluid technology encompasses seven years including research conducted while a Ph.D. student in Canada and at the [redacted] the USA. I hired [the petitioner] as a postdoctoral research associate to conduct studies on a process to improve the isolation of a nutritionally-enhanced oil from an agricultural commodity, corn fiber. [The petitioner's] experience and background have proven invaluable to our research in the above area, since she has had to conduct the relevant studies in my absence, while I have been away on sabbatical in England.

The area of critical fluid technology involves the use of natural, or "green" processing chemicals, such as carbon dioxide and water, to affect the extraction and fractionation of consumable foods and nutritional supplements, devoid of harmful and carcinogenic organic solvents, which have been traditionally used in these processes. [The petitioner's] research has shown that enrichment of nutritionally-beneficial substances can be achieved using a carbon dioxide-based extraction and fractionation process when applied to rice bran and corn fiber oils. This includes construction of a new fractionation apparatus that was previously not available to our group. These results have attracted interest from industrial companies and have potential as the basis for a U.S. patent.

[The petitioner] has in my opinion a unique combination of technical and business expertise that has allowed her to successfully develop new processes and products related to the food industry; and more importantly, to implement them in a commercial environment. Evidence of this is found in her early experience in the Turkish Trade [redacted] over the past few years in Canada where she helped to commercially develop a new process applicable to the isolation of Stevia-based sweeteners. Her training in food technology is quite diverse, involving not only critical fluid technology, but ultrafiltration as well.

In the area of critical fluid technology, [the petitioner] has conducted key research which showed that isolation of a high value oleochemical, phospholipids, could be isolated using carbon dioxide and a generally regarded as safe (GRAS) solvent, ethanol from the commodity, canola seed. She also was the first to study he effect of supercritical carbon dioxide extraction on the myrosinase activity in canola meal and relate it to the degradation of a key component in the canola seed matrix. Further testimony of [the petitioner's] research flexibility was demonstrated in extraction studies of Atlantic mackerel, a material of considerable economic value to Canada. This training and approach is highly valuable to our research program [redacted] is permitting [the petitioner] to make similar contributions that could effect the American economy.

[The petitioner's] research, including her current research, have allowed her results to be published in key journals in the process engineering and food technology fields. Interactions with foreign scientists by [the petitioner], including established experts such

[redacted] Japan an[redacted] Canada, have resulted in an individual with a broad background in food science and engineering. Such a background is rare and highly valued by American industry, whom I feel will benefit from [the petitioner's] training and expertise, and where she can make a significant contribution in the future.

[redacted]

Because of [the petitioner's] extensive experience in academia and industry, she possesses unique qualifications and training. Supercritical Fluid extraction represents a highly specialized area of technology and very few scientists posses training in the field aimed toward seed oil and related agricultural commodities. [The petitioner's] expertise in the area is well documented by her impressive list of technical publications in high quality scientific journals.

The[redacted] is charged with the responsibility to develop new technologies of benefit to farmers, consumers and the agricultural community.

[The petitioner's] current research assignment deals with the isolation and characterization of Nutraceuticals from seed oils via supercritical fluid extraction. These materials are defined as natural substances having potential health and/or nutritional benefits. Successful completion of [the petitioner's] research is vital to the mission of [redacted]nd has impact on the industry, the nation and the general public.

[redacted]

It is noteworthy to mention that in all of the projects involving the application of [redacted] technology to food processing, [the petitioner] played a very significant role in spearheading the research efforts. It was through her original research that [the petitioner] significantly advanced the state of understanding the [redacted]echnologies for the extraction of canola oil from canola seeds. She is an approved professional engineer[redacted] Canada and she is utilizing her engineering skills to design and operate a countercurrent supercritical carbon dioxide fractionation tower at the[redacted] This equipment will be used to fractionate nutraceuticals from agricultural products.

[The petitioner's] diverse professional experiences in highly varied separation techniques such as[redacted]ultra and nano filtration, ion exchange, reverse phase osmosis and enzyme reactions in academia, industry, government agencies and research institutes as an engineer, research scientist and manger are great assets, which assure her present and future success in her field.

With [the petitioner's] extensive background in Food processing/Engineering and her particular expertise in the field [redacted]technology for extraction of edible oil from

agricultural sources, I truly believe that she is indispensable to her current and future employers. [The petitioner's] long list of achievements, publications and scholarly presentations implies that [the petitioner] will continue to be an invaluable resource for the U.S. food processing industry.

[redacted] we are constantly seeking professionals like [the petitioner], who have extraordinary educational and work experience credentials for permanent positions.

[redacted]

I have known [the petitioner] for approximately 3-4 years. She was recruited by myself to assist a small but highly complex industrial client [redacted] with extensive problems in the areas of adaptive process engineering, separation and purification protocols. She was tasked and led their developmental team to develop a novel protocol, which would separate, purify and ultimately recrystalize, rebaudioside from the various steviasides. This is a very high value natural plant product with the potential or replacing a good portion of the $1 billion aspartame market. This project required a wide understanding of specific but highly varied separation techniques including supercritical extraction, ultra and nano filtration, ion exchange, reverse phase osmosis etc.

* * *

The net result of [the petitioner's] work was that she left the company with a clear understanding of the process engineering steps they needed to commercialize a completely new processing system for a new species to North America.

* * *

[The petitioner] has worked as part of a research team [redacted] well as very independently at locations across Canada and Singapore. She has also over fifteen years of research experience in industry, government research institutes and academia. [The petitioner] is very skilled at finding solutions and is familiar with a wide range of process engineering techniques. These are the very skills that [the petitioner] has excelled at and she can answer the questions, which are posed by so many of these emerging companies.

* * *

With [the petitioner's] extensive background in [redacted] and her particular expertise in the field of supercritical fluid technology for extraction of biologically active components and nutraceuticals from agricultural sources, I truly believe that she is indispensable to her current and future employers.

[The petitioner] completed [redacted] studies under my supervision between 1991-95. Her thesis work focused on the extraction and fractionation of neutral lipids and phospholipids from canola using supercritical carbon dioxide and ethanol, as well as the effect of moisture content and heat treatment of canola on oil extraction and myrosinase activity. She also worked with Atlantic mackerel as a high-moisture product to show the effect of moisture on lipid yield and residual proteins. During her tenure as a post-doctoral fellow (Nov. 1995-June 1996) in my laboratory, [the petitioner] focused on the modeling of moisture/lipid interactions. [The petitioner's] research is a significant contribution towards developing processes for the application of supercritical technology to oil extraction from canola and fish. It also contributed to our limited understanding of the complex interactions between various canola and fish components during high-pressure extraction of lipids, which is critical for improved process design. Use of carbon dioxide under high pressure is a relatively new technology replacing conventional organic solvents in the processing of agri-food materials. Such "green" environmentally friendly technologies are crucial for the reduction of the use of petroleum-based organic solvents. It also eliminates the concerns regarding any solvent residue in the final product.

We jointly published 7 peer-reviewed scientific articles. This is certainly an impressive publication record compared to her peers. Our publications received numerous citations according to the [redacted] continue to receive numerous reprint requests for our publications from around the world.

* * *

I believe that she will contribute significantly to the application of supercritical technology for the processing of nutraceuticals. Thus, [the petitioner's] work is in the National interest of the United States. Application of advanced technologies such as supercritical fluid extraction to agricultural crops to obtain high value products is an area of utmost significance. Recovery of plant based components that have health benefits is an important part of the rapidly growing functional food and nutraceutical market, which is estimated to be around $20 billion in North America. Use of environmentally friendly supercritical fluids to obtain products with no organic solvent residue is a great advantage especially for the nutraceutical market to obtain high purity products with health benefits.

[The petitioner's] expertise involves a blend of food/chemical engineering, food science, chemistry and business management. Such a combination coupled with her research and industry experience is certainly not very common and it is a valuable asset. Thus, granting of permanent residence status to her should be of benefit to the U.S. considering her potential to contribute significantly to the field of supercritical technology and her current research focus on nutraceuticals.

I worked with [the petitioner] in 1995-1996 when she was working as Fellow with at [the] It was [an] international collaboration project between [the] partly supported by Japan Society for the Promotion of Science, which is a Government organization. I visited University of Alberta for one month in 1996 [as part of] the project.

I had the pleasure of collaborating with [the petitioner] on a research project. The results of our work have been published in the Journal of Supercritical Fluids. The articles published in this Journal have been peer-reviewed before acceptance. We also presented a paper at the "4th International Symposium on Supercritical Fluids, May 11-14, 1997, Sendai, Japan." The meeting was sponsored by the for the Advancement of Supercritical Fluids. I do have plans to collaborate with [the petitioner] on related research projects supported by "Research for the Future" Program (96P00401) by Japan Society for the Promotion of Science.

* * *

technology has great potential for the production of nutraceuticals, health foods and pharmaceuticals. Nutraceuticals are food components which have biological activity, disease prevention properties, and consequently health benefits for humans. [The petitioner] is an expert on process development for nutraceuticals. She has unique ski and engineering tasks. [The petitioner's] current research projects on [the] enrichment of nutraceutical components in foods will benefit the U.S. food industry tremendously. With [the petitioner's] extensive background in Food Processing/Engineering and her particular expertise in the field of for extraction of edible oils from agricultural sources, I truly believe that her current and future research work will serve the national interest of U.S. to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. The sheer number of the publications that [the petitioner] has authored, and the various presentations and talks that she has given, clearly shows that [the petitioner's] role has been very significant in the and food processing.

The above witness letters demonstrate that the petitioner is a valued member of her research unit for her effective use of supercritical fluid fractionation technology in the extraction of biologically active components and nutraceuticals from agricultural sources. Witnesses generally describe the petitioner's extensive background in food processing/engineering and her particular expertise in extracting edible oil from biological sources using

The petitioner's six witnesses include three supervisory researchers (her current employer), the petitioner's project manager from the National Research Council of Canada (a former employer), the petitioner from the University of Alberta, and a fellow

research collaborator from Japan. The witnesses describe the petitioner's expertise and value to her current and former research projects, but do not demonstrate the petitioner's influence on the field beyond her immediate research groups. The petitioner has not shown that her work has attracted significant attention from independent researchers in the field of food process engineering/chemistry.

In addition to the witness letters, the petitioner submits evidence of her educational credentials, a letter confirming that she acted as reviewer of scientific manuscripts [redacted] documents pertaining to two research fellowships that she was awarded, and proof of her professional association memberships.

The witness letters and supporting documentation demonstrate the petitioner's exceptional ability as a food process engineer. However, in accordance with the statute, exceptional ability is not by itself sufficient cause for a national interest waiver. The benefit that the petitioner presents to her field of endeavor must greatly exceed the "achievements and significant contributions" contemplated in the regulation at 8 C.F.R. 204.5(k)(3)(ii)(F). A petitioner seeking a national interest waiver must persuasively demonstrate that the national interest would be adversely affected if a labor certification were required for the alien. The labor certification process exists because protecting the jobs and job opportunities of U.S. workers having the same objective minimum qualifications as an alien seeking employment is in the national interest. An alien seeking an exemption from this process must present a national benefit so great as to outweigh the national interest inherent in the labor certification process. It cannot suffice to simply state that the petitioner possesses useful skills, or a "unique background." The alien must clearly present a significant benefit to the field of endeavor.

The petitioner submits thirteen articles and technical publications discussing the undoubted importance and benefits of research related [redacted]echnology and nutraceuticals. However, none of these articles even mention the petitioner or her specific contributions to the field. The articles submitted reflect that this technology has existed since at least 1979. Several of the petitioner's witnesses further describe the overall importance of [redacted] For example, [redacted] "[The petitioner's] work is in the national interest of the United States. Application of advanced technologies such as supercritical fluid extraction to agricultural crops to obtain high value products is an area of utmost significance."

Pursuant to published precedent, the overall importance of a given project or area of research is insufficient to demonstrate eligibility for the national interest waiver. While the Service recognizes the overall importance of separation technology and the associated health benefits, eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. By law, advanced degree professionals and aliens of exceptional ability are generally required to have a job offer and a labor certification. A statute should be construed under the assumption that Congress intended it to have purpose and meaningful effect. Mountain States Tel. & Tel. v. Pueblo of Santa Ana, 472 U.S. 237, 249 (1985); Sutton v.

United States, 819 F.2d 1289, 1295 (5th Cir. 1987). By asserting the petitioner's employment as a skilled food process engineer inherently serves the national interest, the witnesses for the petitioner essentially contend that the job offer requirement should never be enforced for this occupation, and thus this section of the statute would have no meaningful effect.

The petitioner submits evidence of seven published articles, three scheduled talks, and two international conferences where she presented her research findings. The petitioner also provides six abstracts from other conferences and meetings where her research was presented. The record contains no evidence that the presentation or publication of one's work is a rarity in the petitioner's field, nor does the record sufficiently demonstrate that independent researchers have heavily cited or relied upon the petitioner's work in their research.

The [redacted] page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition were the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the petitioner's findings. Frequent citation by independent researchers, on the other hand, demonstrates more widespread interest in, and reliance on, the petitioner's work.

[redacted] states that [s]he and the petitioner's joint publications "received numerous citations according to [redacted] However, the petitioner has failed to provide any evidence of the alleged citations. The abstracts from various meetings and conferences merely summarize the petitioner's research presentations rather than demonstrating their overall value or significance to the field of endeavor. The record amply documents that the petitioner has been an active researcher in the U.S. and abroad, but it does not establish that the petitioner's research work has had a greater or more lasting impact than that of other researchers in the field.

The director denied the petition, stating that the petitioner failed to establish that a waiver of the requirement of an approved labor certification would be in the national interest of the United States. The director stated: "While the record indicates that the alien petitioner has been a productive researcher, the record does not establish that her contributions are such that they measurably exceed those of her peers at this time."

On appeal, counsel for the petitioner requests the opportunity to present oral argument. Oral argument, however, is limited to cases where cause is shown. It must be shown that a case involves unique facts or issues of law which cannot be adequately addressed in writing. In this

case, counsel has shown no cause for argument; counsel simply expresses a desire to argue the case in person. Consequently, the request for oral argument is denied.

Counsel argues that the director improperly denied the petition "without even issuing a Request for Evidence." At this point, the decision already having been rendered, the most expedient remedy for this complaint is the full consideration on appeal of any evidence which the petitioner would have submitted in response to such a request. The petitioner, however, offers no such additional evidence to address the deficiencies noted in the director's decision.

Counsel states that the petitioner's "exemplary record of past accomplishment" includes several publications that focus on the petitioner's research using [redacted] oil extraction. The petitioner, however, has not provided a citation history of her published works. Without evidence reflecting independent citation of these articles, we find that the petitioner has not significantly distinguished her results from those of other researchers in the field. It can be expected that if the petitioner's published research was truly significant, it would be widely cited. The petitioner's participation in the authorship of seven published articles prior to the filing of the petition may demonstrate that her efforts yielded some useful and valid results; however, the impact and implications of the petitioner's findings must be weighed. The record fails to demonstrate that the petitioner's seven published works have garnered significant attention from other researchers in the scientific community.

Counsel cites the testimonial letters as evidence of the petitioner's impact on her field. We note that the petitioner's witnesses consist entirely of her current and former research supervisors and collaborators. Such individuals, by virtue of their proximity to the petitioner's work, are not in the best position to attest to the petitioner's impact outside of the institutions where she has worked. Research which influences the field of food process engineering in general serves the national interest to a greater extent than research which attracts little attention outside of the institution that produced that research. We note that the record reflects little formal recognition or awards for the petitioner's research, arising from various groups taking the initiative to recognize the petitioner's contributions, as opposed to private letters solicited from selected witnesses expressly for the purpose of supporting the visa petition. Independent evidence that would have existed whether or not this petition was filed is more persuasive than subjective statements from individuals personally acquainted with the petitioner.

Several of the witnesses, such as [redacted] their confidence in the future significance of the petitioner's work. The witnesses' use of phrases such as "will benefit the U.S. food industry" and "should be of benefit to the U.S. considering her potential" in describing the petitioner seem to suggest future results rather than a past record of demonstrable achievement. [redacted] asserts that American industry "will benefit from [the petitioner's] training and expertise" and states that the petitioner "can make a significant contribution in the future." He further notes that the petitioner's results "have potential as the basis for a U.S. patent." Other statements from witnesses attesting to the petitioner's expertise [redacted] and other advanced laboratory techniques [redacted] suffice to demonstrate eligibility for the national interest

waiver. Any objective qualifications that are necessary for the performance of a research position can be articulated in an application for alien labor certification.

The petitioner has not established that her research has consistently attracted significant attention beyond the institutions where she has worked. Clearly, the petitioner's colleagues at [redacted] and former collaborators have a high opinion of the petitioner and her work. The petitioner's findings, however, do not appear to have yet had a measurable influence in the larger field. While the some of the witnesses discuss the potential applications of these findings, there is no indication that these applications have yet been realized. The petitioner's work has added to the overall body of knowledge in her field, but this is the goal of all such research; the assertion that the petitioner's findings may eventually have practical applications does not persuasively distinguish the petitioner from other competent researchers. The petitioner's witnesses fail to demonstrate her significant influence upon the field as a whole.

The issue in this case is not whether advances in food process engineering methods are in the national interest, but, rather, whether this particular petitioner, to a greater extent than U.S. workers having the same minimum qualifications, plays a significant role. While the petitioner certainly need not establish national fame as a researcher, the claim that her research is especially significant would benefit greatly from evidence that it has attracted attention outside of her research groups.

At issue is whether this petitioner's contributions in the field are of such unusual significance that the petitioner merits the special benefit of a national interest waiver, over and above the visa classification she seeks. By seeking an extra benefit, the petitioner assumes an extra burden of proof. Without evidence that the petitioner has been responsible for significant achievements in the field of food process engineering, we must find that the petitioner's assertion of prospective national benefit is speculative at best. While the high expectations of the petitioner's research supervisors and collaborators may yet come to fruition, at this time the waiver application appears premature.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.